

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

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ARTHUR LEE JONES,  
Plaintiff,

v.

SOUTHERN NEVADA  
CORRECTIONAL CENTER, *et al.*,  
Defendants.

Case No. 2:22-cv-02021-APG-EJY

**ORDER**

Before the Court is Plaintiff's Motion for Extension. ECF No. 5. Plaintiff seeks a 90 day extension to file a complaint and asks the Court to waive the filing fee because he "is indigent." *Id.* Plaintiff alleges he has been granted parole and is spending time seeking financial assistance upon his release from prison. *Id.* at 2. The Court notes Plaintiff was granted until February 23, 2023 to file a complaint. ECF No. 4.

While the Court sympathizes with Plaintiff preparing to be released on parole, this action cannot realistically proceed until he files a complaint. Moreover, a presumption of injury arises from the occurrence of an unreasonable delay in filing a pleading ordered by the Court or prosecuting an action. *See Anderson v. Air West*, 542 F.2d 522, 524 (9th Cir. 1976). Given the circumstances here, the Court finds extending the deadline by 45 days is a meaningful alternative to dismissal that will not result in an unreasonable delay of this action. *Henderson v. Duncan*, 779 F.2d 1421, 1424 (9th Cir. 1986) (explaining that "the district court need not exhaust every sanction short of dismissal before finally dismissing a case, but must explore possible and meaningful alternatives").

With respect to the issue of the filing fee, the Court notes Plaintiff submitted a complete application for *in forma pauperis* ("IFP") for an inmate. ECF No. 1. However, the Court cannot rule on the application at this time, nor can it waive the filing fee because Plaintiff will soon be paroled and is indigent. If Plaintiff wishes to apply for IFP status after he is released on parole, he may file an IFP application for non-inmates. Plaintiff is cautioned he must not file the IFP

1 application for non-inmates until after he has been released on parole. The Court Clerk will send  
2 Plaintiff the IFP application for non inmates.

3 Accordingly, IT IS HEREBY ORDERED that Plaintiff's Motion for Extension (ECF No. 5)  
4 is GRANTED in part and DENIED in part.

5 IT IS FURTHER ORDERED that on or before **March 27, 2023**, Plaintiff must file a  
6 complaint.

7 IT IS FURTHER ORDERED that failure to file a complaint on or before **March 27, 2023**,  
8 will result in a recommendation to dismiss this action **without prejudice**. A dismissal without  
9 prejudice allows Plaintiff to refile his case with the Court, under a new case number, when he can  
10 file a complaint.

11 IT IS FURTHER ORDERED that the Clerk of the Court must send Plaintiff the approved  
12 form Application to Proceed *In Forma Pauperis* for a non-inmate together with instructions for filing  
13 the same.

14 Dated this 10th day of February, 2023.

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17 ELAYNA J. YOUCHAH  
18 UNITED STATES MAGISTRATE JUDGE  
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